

OFFICIAL GAZETTE

GOVERNMENT OF GOA, DAMAN AND DIU

EXTRAORDINARY

GOVERNMENT OF GOA, DAMAN AND DIU

Local Administration and Welfare Department

ORDER

7-15/78/FCS-LAWD

In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955) read with Order No. 681 (E) dated 30-11-1974, the Administrator of Goa, Daman and Diu hereby makes the following Order, namely:-

1. *Short title, extent and commencement:* — (1) This Order may be called the Goa, Daman and Diu Cement Dealers Licensing Order, 1978.

(2) It extends to the whole of the Union territory of Goa, Daman and Diu.

(3) It shall come into force at once.

2. *Definitions.* — In this order, unless the context otherwise requires, —

(a) "Administrator" means the Administrator of the Union territory of Goa, Daman and Diu appointed by the President under article 239 of the Constitution;

(b) "Cement" means any variety of cement manufactured in India and includes portland, pozzolana cement, blast furnace slag cement, rapid hardening cement and low heat cement, but does not include oil well cement, water proof (Hydrophobic) cement and white and coloured cement (other than grey portland cement) and grey cement of specific surface not less than 3500 cm. ²/G;

(c) "Director" means the Director of Civil Supplies and Price Control of the Government of Goa, Daman and Diu;

(d) "Dealer" means a selling agent, distributor or stockist of cement so authorised by the manufacturer of cement/selling agent/distributor and also includes a manufacturer of cement directly

selling cement in the Union territory of Goa, Daman and Diu;

(e) "Form" means a form appended to this Order;

(f) "Licensing Authority" means the Director, Dy. Director of Civil Supplies and Price Control in the District of Goa, Collector of Daman in the District of Daman and Civil Administrator, Diu in the District of Diu or any other officer authorised by the Government to exercise the powers and to perform the duties of Licensing Authority under this Order;

(g) "Government" means the Government of Union territory of Goa, Daman and Diu;

(h) "Offer for sale" includes an intimation by a person or proposal by him for the sale of cement made by the publication of price lists, by exposing cement for sale indicating the price by furnishing a quotation or otherwise;

(i) "Secretary" means the Secretary to the Government dealing with Civil Supplies Department.

3. *Licensing of Dealers.* — (1) No person shall obtain, attempt to obtain or store for sale or sell, cement except under and in accordance with the terms and conditions of a licence issued in this behalf by the Licensing Authority.

(2) Every dealer who is doing business at the commencement of this order shall apply for the licence within fifteen days of the commencement of this Order.

4. *Issue of licence.* — (1) Every application for a licence or renewal thereof shall be made to the Licensing Authority in Form 'A'.

(2) An application for renewal of a licence shall be so made as to reach the Licensing Authority not less than thirty days before the date on which the licence expires;

Provided that the Licensing Authority may entertain an application upto two months from the date of expiry of the licence, if it is satisfied for reasons to be recorded in writing that the applicant was pre-

vented by sufficient cause from submitting the application in time.

(3) Every licence issued or renewed under this Order shall be, —

(a) in form 'B' in case of a selling agent/distributor of a manufacturer of cement and a manufacturer of cement directly selling cement in the Union territory of Goa, Daman and Diu.

(b) in form 'C' in case of stockist appointed by a manufacturer of cement or his selling agent/distributor.

(4) If a licence granted under this Order is defaced, lost or destroyed, the licensee shall forthwith inform the Licensing Authority, who shall on application by the licensee, issue a duplicate licence on payment of the prescribed fee.

(5) The licence shall be valid only for the premises for which it has been granted and a separate licence shall be obtained by a dealer for each place of business. No licensee shall keep his stock of cement at any place not specified in the licence.

(6) The Licensing Authority may for reasons to be recorded in writing refuse to grant or renew a licence of a dealer who shall be informed about the reasons for refusal in writing.

5. *Period of Licence and fee chargeable.* — (1) Every licence granted under this Order shall be valid for a period from the date of issue to the end of December of the year in which the licence is issued.

(2) The fees payable for the issue of a licence and that for the renewal of a licence or the issue of a duplicate licence shall be as specified below: —

(a) For issue of licence to:

(i) A selling agent/distributor or a manufacturer of cement directly selling cement in the Union territory of Goa, Daman and Diu. Rs. 50/-

(ii) a stockist Rs. 30/-

(b) For renewal of licence to:

(i) A selling agent/distributor or a manufacturer of cement directly selling cement in the Union territory of Goa, Daman and Diu. Rs. 25/-

(ii) a stockist Rs. 15/-

(c) For issue of duplicate licence to:

(i) A selling agent/distributor or a manufacturer of cement directly selling cement in the Union territory of Goa, Daman and Diu. Rs. 20/-

(ii) a stockist Rs. 10/-

6. *Deposit of Security.* — Every dealer, who applies for licence under this Order, shall, before a licence is issued to him, deposit with the Licensing Authority a security of the value as specified below and in such manner as the Licensing Authority may

direct, for due observance of the provisions of this Order and the conditions subject to which the licence is granted to him:

Category of dealer	Value of security
Selling agent/distributor or a manufacturer of cement directly selling cement in the Union territory of Goa, Daman and Diu.	Rs. 2500/-
Stockist	Rs. 1000/-

7. *Directions as to Distribution/Sale/Maintenance of Accounts.* — (1) The licensee shall comply with any directions that may be given to him from time to time by the Licensing Authority in writing, in this behalf with regard to storage, sale, purchase, acquisition, distribution or disposal of cement and the manner in which the accounts thereof shall be maintained and returns submitted.

(2) No licence other than a selling agent, distributor and manufacturer shall sell cement by transfer of Railway Receipt to another licensee without the prior approval in writing of the Licensing Authority and except in accordance with such conditions as may be specified by the Licensing Authority while according such approval.

8. *Contravention of the terms and conditions of licence or direction.* — (1) No licensee or his agent or servant or any other person acting on his behalf shall contravene any of the terms or conditions of the licence or the directions issued under clause 7 or any provisions of this Order, and if any licensee, his agent or servant or any other person acting on his behalf contravenes any of the said terms, conditions, directions, or any provisions of this Order and if the Licensing Authority is satisfied about the contravention, may without prejudice to any other action that may be taken against the licensee according to law, cancel or suspend by order in writing his licence.

Provided that the Government may, upon application, or on his own motion, rescind any order of suspension of a licence passed by him or the Licensing Authority or review his own order or that of his predecessor or pass any other appropriate order with regard to such a licensee.

(2) Without prejudice to the provisions of sub-clause (1) if the Licensing Authority is satisfied that the licensee has contravened any of the terms and conditions of the licence, or the directions issued under clause 7 or any other provisions of this Order, and cancellation of his licence and/or forfeiture of his security deposit is called for, he may, after giving the licensee a reasonable opportunity of stating his case and of being heard against the proposed cancellation and/or forfeiture, by order cancel his licence and/or forfeit the whole or a part of the security deposited by him and he shall forward a copy of the order to the licensee.

9. *Appeal.* — (1) Any person aggrieved by the order of the Licensing Authority refusing to grant or renew a licence, or cancelling or suspending his licence, forfeiting the security deposited by him under the provisions of this Order, may prefer an appeal in writing before the Secretary (of the concerned Administrative Department) within a period

of thirty days from the date of receipt of the order by him.

Provided that the Secretary may entertain the appeal after the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) Every appeal filed under sub-clause (1) shall be in the form of a memorandum signed by the appellant and shall be accompanied by an attested copy of the order appealed against. It shall be presented in person either by appellant or his agent or sent by registered post to the Secretary.

(3) The appeal shall be liable to be summarily rejected if the appellant fails to furnish an attested copy of the order appealed against.

(4) If the Secretary admits the appeal, he shall fix a date for hearing of which notice shall be sent to the appellant as also to the Licensing Authority. Pending disposal of the appeal the Secretary may stay the operation of the order appealed against.

(5) The Secretary may, after giving the parties concerned an opportunity of being heard, confirm, vary, modify or set aside the order appealed against or pass such other orders as he may deem fit.

(6) The Secretary may, upon application or of his own motion revise any order passed by the Licensing Authority or review his own order or that of his predecessor;

Provided that the provisions relating to appeals contained in sub-clauses (1), (2), (3), (4) and (5) shall *mutatis-mutandis* apply to the applications for review.

Provided further that no order which is likely to affect any person adversely shall be passed, unless such a person has been given an opportunity of being heard.

(7) Any person aggrieved by an appellate or any other order of the Secretary (of concerned Administrative Department) under this control Order may prefer an appeal in writing before the Chief Secretary to the Government of Goa, Daman and Diu. The procedure laid down in regard to the submission of appeal before the Secretary under sub-clause (1) to (5) shall *mutatis-mutandis* apply to the appeals before the Chief Secretary to the Government of Goa, Daman and Diu.

(8) The Administrator may suo-moto or on a representation made to him, call for and examine the record of any proceedings before the Secretary or any officer subordinate to the Secretary for the purpose of satisfying himself as to the correctness, legality or propriety of any finding or order passed or recorded by any of them and to pass thereon such orders as he thinks fit.

10. *Powers of entry, search, seizure etc.* — (1) The Government or the Licensing Authority or any stipendiary magistrate or any police officer not below the rank of S.I. or any Inspector/Asst. Inspector/Sub-Inspector of the Civil Supplies Department, Panaji or any other Officer authorised by the Government, may with such assistance, if any, as he thinks fit,

(a) require the owner, occupier or any other person in charge of any place, premises, vehicle or

vessel in which he has reason to believe that any contravention of the provisions of this Order or of the conditions of any licence issued thereunder has been, is being, or is about to be committed, to produce books of accounts or other documents showing transaction relating to such contraventions;

(b) enter, inspect, or break open and search any place, premises, vehicle or vessel in which he has reason to believe that any contravention of the provisions of this Order or of any conditions of any licence issued thereunder has been, is being, or is about to be committed;

(c) seize any document or take or cause to be taken extracts from or copies of any documents showing transactions relating to such contravention;

(d) search, seize and remove stock of cement and the animals, vehicles, vessels or other conveyance used in carrying the said cement in contravention of the provisions of this Order or of the conditions of the licence issued thereunder and thereafter take, authorise the taking of all necessary measures for securing the production of stocks of cement and the animals, vehicles, vessels or other conveyance so seized in a court of law and for their safe custody pending such production.

(2) The provisions of section 102 and 103 of the Code of Criminal Procedure, 1973 Central Act 2 of 1974 relating to search and seizures shall so far as may be, apply to searches and seizures made under this clause.

11. *Power to call for information.* — Every licensee shall when so required by general or special directions by the Government or the Licensing Authority, furnish truthfully and to the best of his knowledge such particulars or information relating to cement in such manner as may be required.

12. *Exemption.* — The Administrator of Goa, Daman and Diu may by order notified in the Official Gazette, exempt any person or class of persons from the operation of all or any of the provisions of this Order, subject to such conditions, if any, as he may deem fit to impose and may at any time suspend or rescind such exemption.

FORM "A"

[See clause 4(1)]

The Goa, Daman and Diu Cement Dealers Licensing Order, 1978

Application for grant/Renewal of licence

1. Applicant's name
2. Applicant's profession
3. Applicant's residence
4. Situation of applicant's place or places of business with particulars as to number of house, mohalla, town or village, police station and district
5. How long has the applicant been trading in cement?
6. Did the applicant hold a cement licence or any previous occasion (if so, give particulars including its suspension or cancellation, if any).
7. Quantity of cement handled annually during the last three years
8. Quantity of cement likely to be handled during the current year
9. Income tax paid in the two years preceding the year of application (to be indicated separately).
 - (1)
 - (2)

10. (a) Quantity of cement in the possession of the applicant on the date of application (Separate figures are to be given for each godown).

- (b) Complete address of places where cement is/is proposed to be stored.

I declare that the quantities of the cement specified above are in my possession this day and are held at the places noted above.

I have carefully read the conditions of licence given in Form 'B'/'C' appended to the Goa, Daman and Diu Cement Dealers Licensing Order, 1978 and I agree to abide by them.

- (a) I have not previously applied for such licence in this District for cement;
- (b) I applied for such licence in this District ... on ... and was/was not granted a licence on
- (c) I hereby apply for renewal of licence No. ... dated ... issued to me on ...

Place ...

Date ...

Signature of the applicant

FORM "B"

[See Clause 4(3)(a)]

The Goa, Daman and Diu Cement Dealers
Licensing Order, 1978

Licence for purchase, sale/storage for sale of cement Licence No. ...

1. Subject to the provisions of the Goa, Daman and Diu Cement Licensing Order, 1978 and to the terms and conditions of this licence ... is /are hereby authorised to purchase, sell or store for sale the cement.

2. (a) The licensee shall carry on the aforesaid business at the following places:—

(b) Cement in which the aforesaid business is to be carried on shall not be stored at any place other than any of the godowns mentioned below:

Note.— If the licensee intends storing his cement in places other than those specified above, he shall give prior intimation thereof and shall produce the licence for making requisite changes by the licensing authority. If the licensee in some cases finds it difficult to give prior intimation it shall be given within 48 hours of actual occupation of the godowns at places other than those specified in the licence.

3. (i) The licensee shall, except when specially exempted by the Government or by the licensing authority in this regard, maintain a register of daily accounts (for the cement mentioned in the paragraph 1) showing correctly.

- (a) the opening stock on each day;
- (b) the quantities received on each day showing the place from where and source from which received;
- (c) the quantities delivered or otherwise removed on each day showing the places of destination; and
- (d) the closing stock on each day.

(ii) The licensee shall complete his accounts for each day on the day on which they relate, unless prevented by reasonable cause the burden of proving of which shall be upon him.

(iii) A licensee who is a producer himself shall separately show the stocks of his own produce in the daily account if such stocks are stored in his business premises.

4. The licensee shall except when specially exempted by the Government or by an Officer authorised by the Government in this behalf submit to the licensing authority concerned a true return, in form D of the stock, receipts and deliveries of the cement every fortnight (1st to 15th and 16th to the end of the month) so as to reach him within five days after the close of the fortnight and endorse a copy of the same to the concerned Mamlatdar.

5. The licensee shall not:—

- (i) enter, into any transaction involving the purchase sale or storage for sale of cement in a speculative manner prejudicial to the maintenance and easy availability of supplies of cement in the market;

- (ii) withhold from sale supplies of cement ordinarily kept for sale;

6. (1) The licensee if he is wholesaler sell cement to wholesalers/retailers (including himself if he also sells in retail) entering their names in the register and in accordance with such directions as the licensing authority or any officer authorised by that authority in this behalf may given from time to time. The register shall be in form D.

(2) The licensee if he is wholesaler is allowed to sell at wholesale rate direct to consumers a bag or more in bulk, subject to the condition that a separate register like that of retailers should be kept.

7. The licensee shall issue to every customer a correct receipt or invoice as the case may be giving his own name, address and licence number, the name address and licence number (if any) of the customer the date of transaction, the quantity sold, the price per quintal the total amount charged and shall keep a duplicate of the same to be available for inspection on demand by the licensing authority or any officer authorised by it in this behalf.

8. The licensee shall give all facilities at all reasonable time to the licensing authority or any officer authorised by it or the Government for the inspection of his stocks and accounts at any shop, godowns or other place used by him for the storage, sale or purchase of foodgrains and for the taking of samples of cement for examination.

9. The licensee shall comply with any direction that may be given to him by the Government in regard to purchase, sale and storage for sale, of cement and in regard to the language in which the register, returns, receipts or invoice mentioned in paragraphs 3, 4, 6 or 7 shall be written and the authentications and maintenance of the register mentioned in paragraphs 3 and 6.

10. The licensee shall in case he functions in a regulated market abide by such instructions relating to his business as are given by the marketing authority having jurisdiction and in any other case by such body as may be recognised by the Government in this behalf.

11. This licence shall be attached to any application for renewal.

12. This licence shall be valid upto 31st December, 19 ...

Place ...

Date ...

(Licensing Authority)

FORM "C"

[See clause 4(3)(b)]

The Goa, Daman and Diu Cement Dealers
Licensing Order, 1978

Licence for purchase, sale/storage for sale of cement

Licence No. ...

1. Subject to the provisions of the Goa, Daman and Diu Cement Dealers Licensing Order, 1978 and to the terms and conditions of this licence Shri ... (hereinafter called the licensee) is/are hereby authorised to purchase, sell or store for sale, the undermentioned varieties of cement.

2.(a) The licensee shall carry on the aforesaid business at the following places:—

(b) Cement in which the aforesaid business is to be carried on shall not be stored at any place other than any of the godowns mentioned below:

Note.— If the licensee intends storing cement in places other than those specified above, he shall give prior intimation thereof and shall produce the licence for making requisite changes by the licensing authority. If the licensee in some cases finds it difficult to give prior intimation it shall be given within 48 hours of actual occupation of the godowns at places other than specified in the licence.

3(i) The licensee shall, except when specifically exempted by the Government or by the Licensing Authority in this behalf, maintain a register of daily accounts for each variety of cement (mentioned in the paragraph 1) showing correctly;

- (a) the opening stock of each day.

- (b) the quantities received on each day showing the place from where and the source from which received.
- (c) the quantities delivered or otherwise removed on each day showing the places of destination; and
- (d) the closing stock on each day.

(ii) the licensee shall complete his accounts for each day on the day to which they relate, unless prevented by reasonable cause, the burden of proving of which shall be upon him.

4. The licensee shall, except when specially exempted by the Government or by any officer authorised by the Government in his behalf, submit to the licensing authority concerned or to any officer designated by that authority a true return in form D, of the stocks receipts and deliveries of each variety of cement every fortnight so as to reach him within five days after the close of the fortnight to which it relates.

5. The licensee shall not contravene the provisions of the Goa, Daman and Diu Cement Dealers Licensing Order, 1978 or any other order relating to cement issued under the Essential Commodities Act, 1955 (10 of 1955).

6. The licensee shall not contravene the provisions of any law relating to cement for the time being in force.

7. The licensee shall not.

(i) enter into any transaction involving purchase, sale or storage for sale of cement in a speculative manner prejudicial to the maintenance and easy availability of supplies of cement in the market;

(ii) withhold from sale supplies of cement ordinarily kept for sale.

8. The licensee shall exhibit at the entrance or some other prominent place of his business premises, the price list of cement held by him for sale. Such price list shall be legibly written in the principal language of the locality concerned. It shall indicate separately the prices of different varieties of cement.

9. The licensee shall, issue to every customer/retailer a correct receipt or invoice as the case may be giving his own name, address and licence number, the name, address and licence number, (if any) of the customer/retailer, the date of transaction, the quantity sold, the price per kg. or per pack and the total amount charged and shall keep a duplicate of the same to be available for inspection on demand by the licensing authority or any officer authorised by it in this behalf.

10. The licensee shall give all facilities at all reasonable times to the licensing authority or any officer authorised by it or the Government for the inspection of his stocks and accounts at any shop, godown or other place used by him for the storage, sale or purchase of cement and for the taking of samples of cement for examination.

11. The licensee shall comply with any direction that may be given to him by the Government in regard to purchase, sale and storage for sale of cement and in regard to the language in which the register, returns, receipts or invoices mentioned in paragraphs 3, 4, 8 and 9 shall be written.

12. The licensee shall in a case where he functions in a regulated market abide by such instructions relating to his business as are given by the marketing authority having jurisdiction and in any other case by such body as may be recognised by the Government in this behalf.

13. This licence shall be attached to any application for renewal.

14. This licence shall be valid upto 31st December, 19 ...

Place ...

Date ...

(Licensing Authority)

FORM "D"

(See condition 4 of the licence issued)

Statement of the receipts, disposal and closing balance of the cement for the fortnight ended on ...

(All figures are in tonnes)

Sr. No.	Name of the places/godown	Opening balance as on ...	Receipts during the fortnight	Disposal during the fortnight	Closing balance as on ...	Factory and quarter wise details of the receipts (a)			Remarks
						Name of the factory	Quarter	Quantity in tonnes	
(1)	(2)	(3)	(4)	(5)	(6)		(7)		(8)

Total

(b)

Place ...

(a) In case the cement is received from any agent/distributor the name of the agent/distributor may be given in place of factory.

Date: ...

(b) The total should tally with the figures shown at Col. No. 4.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

E. N. Rodrigues, Under Secretary (Revenue).

Panaji, 14th March, 1978.

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